

IN THE HIGH COURT OF PUNJAB & HARYANA
CHANDIGARH

Criminal Revision No.810 OF 1994
Date of Decision: JULY 20, 2007

BALWINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr.D.S.Pheruman,Advocate,
for the petitioner.
Mr. Anter Singh Brar,DAG Punjab.

A.N.JINDAL, J

Balwinder Singh accused-petitioner
(hereinafter referred to as 'petitioner') has called in question the judgment dated 26.11.1994 passed by Addl. Sessions Judge Amritsar dismissing the appeal of the petitioner against the judgment dated 21.03.1994 passed by Judicial Magistrate 1st Class Tarn Taran convicting him under Sections 304-A and 427 IPC and sentencing him to undergo RI for one year and a fine of Rs.400/- under Section 304-A IPC and six months sentence under Section 427 IPC.

In nutshell, the prosecution story as unfolded during the trial which resulted into conviction of the petitioner is that on 03.05.1990, Balwant Singh and his wife

Gurdip Kaur were traveling in bus No. PJG 3111 from Sirhali to Tarn Taran. At about 8 A.M when the bus reached near the rice mill of Joginder Singh of Naushehra Pannuan. Petitioner while driving rashly and negligently, bus No. PAB 1807 came from the opposite side, struck against the bus No.PJG 3111.

Consequently, both Gurdip Kaur and Balwant Singh suffered injuries ultimately he died whereas Gurdip Kaur survived. On the statement of Gurdip Kaur dated 05.05.1990, a case under Sections 337,279,427 was registered against the accused, later on it was converted under Section 304A.

On completion of investigation, challan against the accused was presented in the Court. The accused was charged under Sections 304A and 427 IPC which he denied as incorrect and opted to contest the case. The trial ended in conviction, the appeal was also dismissed. Hence this petition.

At the very outset, the counsel for the petitioner has stated that though the case is of mistaken identity because neither Alamjit Singh,PW4 nor Mehal Chand, PW6 have identified the petitioner being the driver of the offending vehicle and Gurdip Kaur has also not identified him. Yet he does not assail the conviction of the accused on account of the fact that both the courts below have given a finding of fact that the petitioner was driving the vehicle at the time of incident and he has prayed only for extending some leniency against the petitioner as Balwant Singh did

not die as a direct result of the accident and he died after 3 days thereof.

Having given my thoughtful consideration to the aforesaid contentions, it may be observed that the petitioner has been undergoing lot of agony due to the longevity of the proceedings which remained pending against him since the Year 1990. He suffered injury on 05.05.1990 but he died 3 days thereafter. No previous bad antecedents of the petitioner have been placed on record by DAG, Punjab so as to deny him the benefit of Probation.

Consequently, while dismissing the petition sentence, passed against him is modified to the extent that the accused be released on probation under Section 4(1) of the Probation of Offenders Act, 1956 on his executing a bond in the sum of Rs.5000/- with one surety in the like amount to the satisfaction of the trial Court for a period of one year within which period he shall continue to be of good behaviour and keep peace and in case of breach of conditions of the bond he will be ready to serve sentence as and when called for.

Ordered accordingly.

July 20, 2007
Ruchika

(A.N.JINDAL)
JUDGE

To be referred to reporter: Yes/No